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# **Domestic Violence**

Protective Orders



# Definition

## Fam C 6211

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“Domestic Violence” is abuse perpetrated against any of the following persons:

- Spouse or former spouse
- Cohabitant or former cohabitant
- Dating or engagement relationship
- A person with whom the respondent has had a child



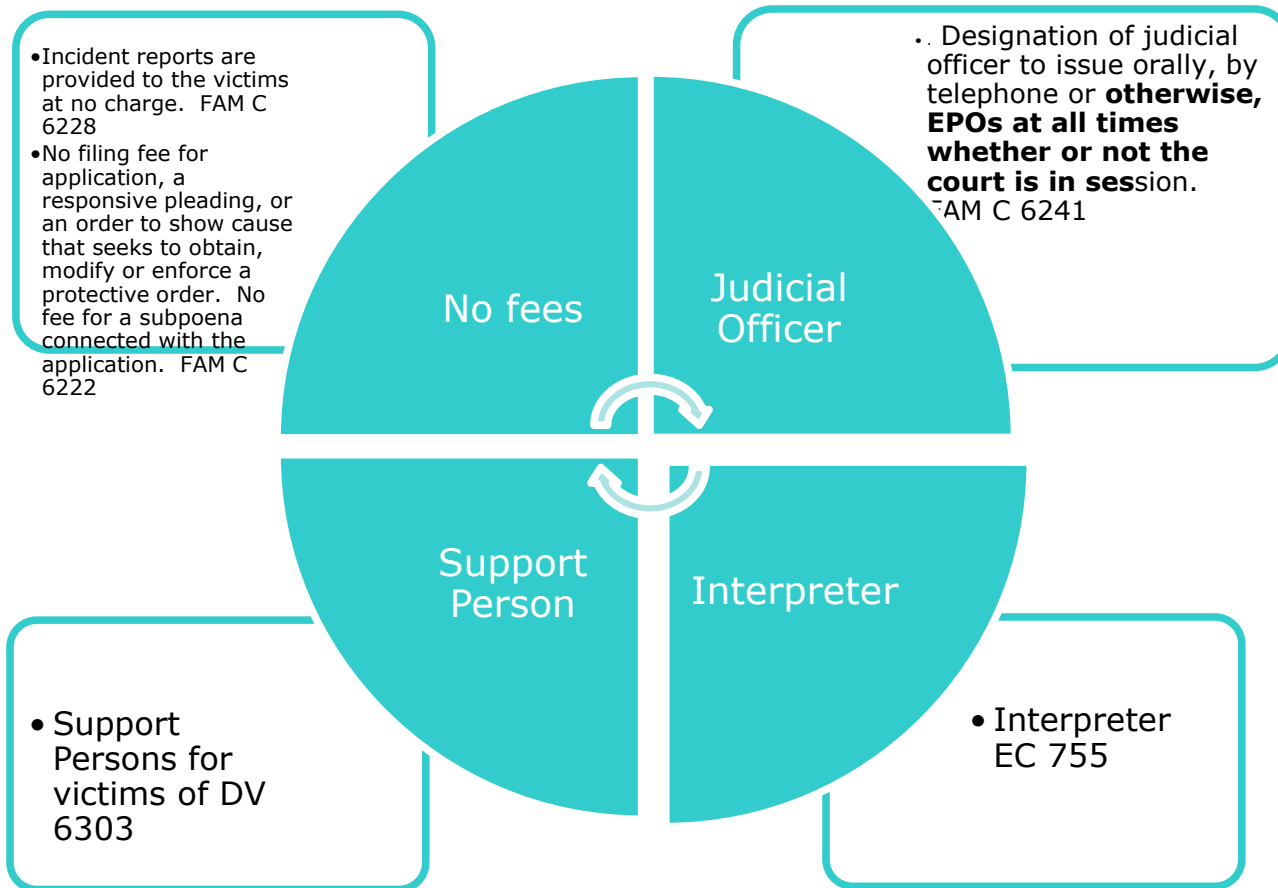
# Purpose

## Fam C 6220

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To prevent recurrence of acts of violence and sexual abuse and to provide for a separation of the persons involved in the domestic violence for a period sufficient to enable these persons to seek a resolution of the causes of the violence.

# Adequate Access to the Courts





# Mutual Orders

## Fam C 6305

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- Both parties must personally appear
- Each party presents written evidence of abuse or domestic violence
- The court makes detailed findings
  - Both parties acted as aggressors
  - Neither acted in self defense



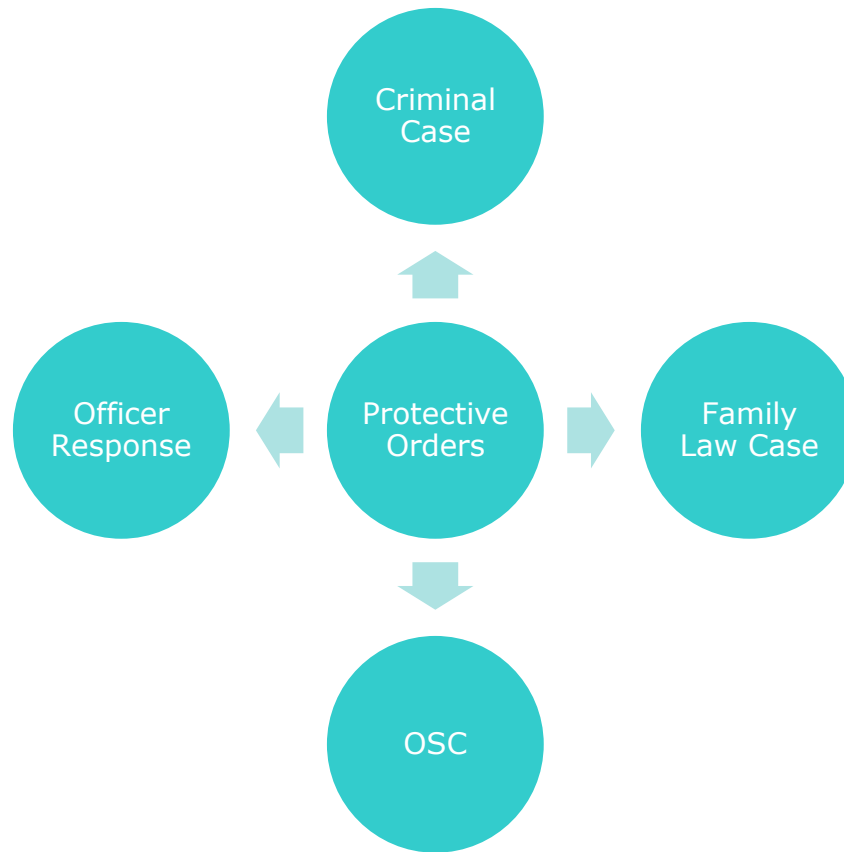
# Types of Orders

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- Emergency Protective Order (EPO)
- Ex Parte – Temporary Order
- Order to Show Cause (OSC) – Order after hearing
- Criminal Protective Order
- WI 213.5 orders (Not discussed)

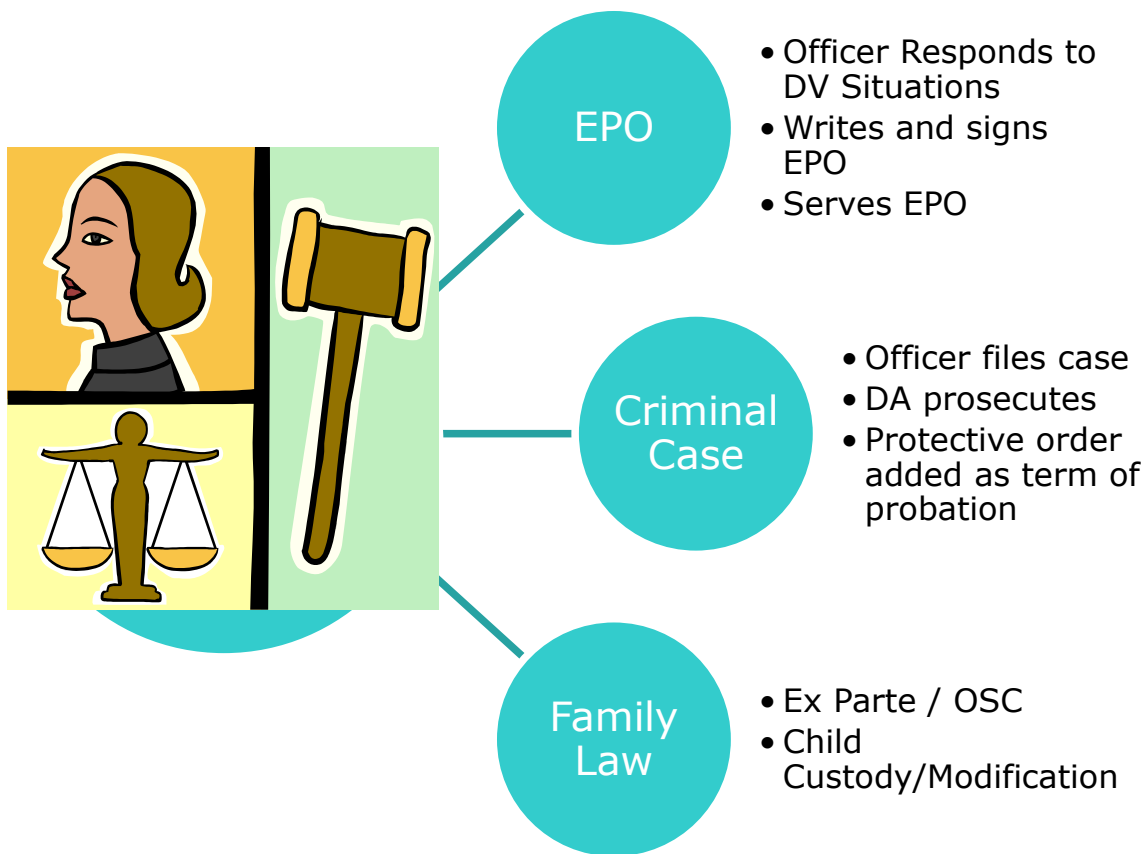
# Protective Orders

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# All roads lead to ....

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# Fairness to Both Sides

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## Victim

- Access to Courts
- Concern for Safety
- Domestic Violence Training



## Defendant

- Due Process
- Credibility
- Evidence Code



# **EPO – Grounds for Issuance**

## **FAM C 6275**

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- Reasonable Cause
- Effective for 5 court days; 7 calendar days
- Findings of the court



# Ex Parte Orders

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- Temporary-order must be decided the same day the application is made
- Notice can be waived
- Low level of proof
- Expires at OSC hearing
- Requires CLETS order
- OSC scheduled within 20 days



# Petition for Ex Parte

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- Notice
- Declaration under penalty of perjury
- Last incident of abuse or threats
- Criminal history
- Court proceeding in any other county, state or country
- Reason for denying the request

# Standard of Proof for Ex Parte Orders

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- If the affidavit provided to the court shows, to the satisfaction of the court, *reasonable proof of a past act or acts of abuse*. Fam C §6300.
- Abuse is bodily injury or threat of injury, stalking, or sexual assault, or behavior that can be enjoined under Fam C §6320(d).

# OSC – Notice Hearing

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- Notice and Hearing
- Order - Personal Conduct
  1. Excluding a person from dwelling
  2. Participation in Batterer's program - 6343
  3. Restitution for loss of earnings, medical expenses, out-of-pocket; private services; attorney fees
  4. Child support and spousal support
  5. Custody and Visitation order
  6. Animals
  7. Duration of orders
- **V. Registration and Enforcement of the Orders**
  1. CLETS
  2. Willful and Knowing Violation of the order  
- PC 273.6
  3. Appointment of Counsel for the victim - 6386



# Hearings

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The restraining order hearing takes precedence over all other matters on the calendar, except old restraining order matters or matters given special precedence by law. Fam C §244.



# DV in San Bernardino County - 09

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- EPOs
- Family Law
- Criminal